



Rules of
Department of Social Services
Division 70—Division of Medical Services
Chapter 92—Adult Day Health Care Program

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES**

**Division 70—Division of Medical
Services**

**Chapter 92—Adult Day Health Care
Program**

**13 CSR 70-92.010 Adult Day Health Care
Program**

PURPOSE: This rule establishes the regulatory basis for administration of a medical assistance program of adult day care/treatment as mandated by House Bill 1086, 81st General Assembly. More specific details of the conditions of provider participation, criteria and methodology of provider reimbursement, recipient eligibility and amount, duration and scope of services covered are included in the provider program manual and the enrollment process documentation.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Definitions.

(A) Adult—Adult means a person eighteen (18) years of age and over.

(B) Adult day health care—A program of organized therapeutic, rehabilitative and social activities provided outside the home, for a period of less than twenty-four (24) hours, to persons with function impairments of at least a nursing facility level of care.

(C) Associated adult day health care program—An adult day health care program which is connected physically with a licensed long-term care facility or hospital but has separate designated space for an adult day health care program which is above their licensed space requirement for their residents. An associated adult day health care program may share, in part, staff, equipment, utilities, dietary and security with the connected long-term care facility. Recipients in the adult day health care program may participate with the residents of the long-term care facility or hospital for some activities and programs.

(D) Direct care staff—Those staff assigned to take care of the direct needs of the recipients.

(E) Free-standing adult day health care program—A program of adult day health care services which does not share staffing or licensed space or any physical components of space, equipment, furnishing, dietary, security, maintenance or utilities utilized in the provision of service with any hospital, licensed intermediate care facility or skilled nursing facility.

(F) Individual plan of care—The provider's written description of the amount, duration and scope of treatment and services to be provided to each individual recipient of care.

(G) Intermediate care facility—As defined in section 198.006, RSMo.

(H) Nursing facility—As defined in 13 CSR 70-10.010(4)(Q).

(I) Provider—Any natural person, corporation, not-for-profit corporation, professional corporation, business, partnership or other entity providing services or goods to Title XIX-eligible recipients under a Title XIX participation agreement currently in effect with the Department of Social Services pursuant to Chapter 208, RSMo.

(J) Skilled nursing facility—As defined in section 198.006, RSMo.

(2) Eligibility.

(A) Persons eligible for adult day health care services shall be—

1. Adult persons otherwise eligible for Title XIX benefits as determined by the Division of Family Services; and who are

2. Also assessed by the Division of Aging to be in need of at least a nursing facility level of care where provision of the adult day health care services would preclude or delay the necessity of institutional nursing care.

A. The Division of Aging assessment must be performed prior to the initial delivery of adult day health care services. If the completed assessment documents a need for adult day health care, the Division of Aging will authorize, in writing, services to be effective, the date of initial service or the date of the assessment, whichever is later.

B. Each Division of Aging assessment or reassessment shall include, for each recipient, a care plan and the reviewing physician's certification of the level of care need and recommendation for adult day health care services.

C. Reassessment of a recipient in continuing receipt of adult day health care services shall be conducted by the Division of Aging within at least six (6) calendar months from the date of the initial assessment or from the date of the last preceding reassessment.

D. The recipient will be informed by the Division of Aging of the level of care determination, the assessment findings and the

services available through the adult day health care program; and

3. Adult persons who do not reside in a long-term residential care facility licensed by the Division of Aging or the Department of Mental Health.

(3) Requirements for Providers of Adult Day Health Care Services.

(A) Unless otherwise exempt from licensure by statute, Medicaid providers of adult day health care must be licensed by the Division of Aging of the Department of Social Services as an adult day care facility in accordance with 13 CSR 15-8.010—13 CSR 15-8.080.

(B) If a prospective provider is a licensed intermediate care facility, skilled nursing facility, licensed adult boarding facility, licensed residential care facility or hospital they must request and receive written approval as required from their respective state licensing authority to provide these services at the same location. This approval must be received prior to the submission of a proposal.

(C) As a condition of enrollment, a prospective provider must submit a written proposal following the department's proposal guidelines which documents the administrative ability, fiscal responsibility and capability to provide necessary services and to meet all of the standards and conditions of participation in the agreement.

(D) The provider of adult day health care services must have a signed Medicaid participation agreement in effect with the Department of Social Services.

(E) The provider shall maintain adequate records fully documenting all adult health care services provided in accordance with provisions of 13 CSR 70-3.030 and shall maintain the following specific service and administrative records:

1. Each provider shall have its personnel policies in writing and there shall be a written position description for each job which specifies at least the qualifications for the job, a delineation of the tasks, to whom the person is responsible and the salary range;

2. Recipient records—

A. Identifying information consisting of name, address, telephone number, sex, age; the name of the person to be notified in case of emergency; next of kin; travel directions between home and center when indicated; Medicaid identification number and identifying numbers related to other health care benefits; and recipient religious preference;

B. Functional assessment, original and revised versions noting recipient progress;

C. Assessment of the home environment if a home visit is made;

D. Individual recipient plan of care;

E. Physician's report, including admission medical assessment and subsequent additional information;

F. Daily records of attendance and services provided, as defined in paragraphs (3)(H)1.—14.;

G. Medications administration and drug reactions; and

H. Accident or incident reports;

3. Individual personnel records for staff and consultants—

A. Name, address, telephone, age and sex;

B. Licensure, certification or other documentation demonstrating required qualifications;

C. Educational background;

D. Employment history and notes on references;

E. Evaluation of performance and attendance;

F. Person to be notified in case of emergency; and

G. Copies of formalized agreements with nonstaff member consultants listing the services to be provided; and

4. Administrative and fiscal records—

A. Expenditures with substantiating documentation in accordance with generally accepted accounting procedures;

B. Current and projected annual budgets, including specific cost allocations and formula for arriving at projected expenditures and including accurate service costs that are maintained and revised annually;

C. Fees charged and fee schedule, if appropriate;

D. Annual program evaluation report, with supportive summary statistics, to include information on—the number of adult day health persons served; demographic data on the adult day health care persons served; cost of delivering services, descriptions of the social, health and functional characteristics of the persons served; the range of services provided and the outcome of services. Recommendations for administrative changes to improve the adult day health care program must be summarized;

E. Records of in-service training offered by the center;

F. A permanent record of all recipients admitted to the center;

G. Current inspection reports from the health and fire departments;

H. The daily schedule of activities;

I. Daily menu of meals served during the previous calendar month; and

J. Staff and recipients' attendance records.

(F) The provider shall make provision for and operate in accordance with the following standards requirements:

1. Space Requirements.

A. Minimum space requirements of eighty (80) square feet per recipient for up to twenty (20) recipients and an additional fifty (50) square feet per recipient for additional recipients is required. Space requirements do not include office space, bathrooms, storage, examining room or dining room unless the latter is also used for activities. Adult day health care programs shall not have less than three hundred twenty (320) square feet of required space regardless of the number of participants.

B. The adult day health care program shall have a large room where all of the recipients can gather as well as rooms or divided areas for small group activities including a quiet area for rest. A room with a bed and with adequate provisions for privacy shall be available for medical examination and for temporary holdover for recipients who become ill or upset.

C. Associated adult day health care program. Where adult day health care services are being provided within the physical setting of any long-term care facility or hospital, the facility shall have eighty (80) square feet per adult day health care participant for up to twenty (20) participants and an additional fifty (50) square feet per recipient for additional recipients. Regardless of the number of the participants, the long-term care facility shall have a minimum of three hundred twenty (320) square feet which can be designated towards the square feet requirement. The required space as previously specified in this subparagraph is to be space that is above the particular facility's required licensed space for providing long-term or hospital care in the area of the dining room, activities room, therapy rooms and community areas;

2. Furnishings and equipment.

A. Furniture shall be appropriate for use by impaired persons. It shall be sturdy and secure so that it cannot easily tip when used for support while walking or seating. Furniture shall be of a size so that it is easily used by persons with limited agility, shall permit feet to rest on the floor and shall have armrests.

B. All rugs and floor coverings shall be tacked down securely. Throw rugs may not be used. All equipment and furnishings shall be in good condition and safe for usage by recipients and staff.

C. All adult day health care programs shall have at least—

(I) One (1) chair for each recipient and staff person;

(II) Table space adequate for all recipients to be served a meal at a table at the same time;

(III) Reclining lounge chairs or other comfortable furniture, the number to be determined by the needs and numbers of recipients; and

(IV) One (1) bed to be available for temporary use of recipients who become ill or upset.

D. The provider shall provide equipment to encourage active participation and group interaction and materials shall be geared to the interest and backgrounds of the recipients;

3. Staffing.

A. There shall be one (1) full-time person in charge of the adult day health care program who is responsible for day-to-day operations, either a director or his/her designee. If an adult day health care program is associated with another facility, it shall have its own full-time director and designated full-, part-time, or both, direct care staff. A long-term care facility is not to use the adult day health care direct care staff to meet the required staff ratio for the licensing of its long-term care facility and vice versa. If a facility has an associated adult day health care program with a daily participant census under five (5), the adult day health care director also may be responsible for other sections of the facility.

B. The director shall be a qualified person with demonstrated competence by specialized background, education, experience, or both, in working with the care of the elderly, disabled and infirm.

C. Direct care staff to recipient shall be no less than one to eight (1:8). Direct care staff shall be sufficiently qualified and in sufficient numbers to meet the needs of the adult day health care program recipients. Trained volunteers may be counted in the staff ratio, provided a volunteer program description is submitted and approved by the department specifying the formal training and regular work scheduling of the volunteers. Secretaries, cooks, accountants and other nondirect care staff members must not be considered in calculating this one to eight (1:8) ratio. It is required that in any case there should always be at least one (1) person besides the director or his/her designee on the premises so that recipients are never left unattended. Provision shall be made for experienced, competent relief personnel during vacations, absences or other periods necessitating substitute staff.

D. Because of the type of participant(s) and the services offered by an adult day health care program, a registered or licensed nurse must be available to the adult day health care recipients at all times and readily available in the event of an emergency during the adult day health care program's operating hours. The registered or licensed nurse must be available by being a staff member of the adult day health

care program or located in the same building provided that a formalized agreement is executed which outlines the responsibilities of the registered nurse (RN) or licensed practical nurse (LPN) to the adult day health care program. Part of each day must be committed by the RN or LPN to the adult day health care program. If the RN or LPN is employed by another party, that party must co-sign the agreement. In the event an adult day health care program does not have a registered nurse or licensed nurse as a staff member or available in the building, a certified medication technician may be employed as a full-time staff member provided that an RN or LPN consultant monitors patient charting, medication distribution and assists in medical planning.

E. All personnel, paid and volunteer, shall be given a general orientation to the facility, its normal routine, fire and safety measures and policies and regulations;

4. Fire safety.

A. Providers located in organized areas or municipalities shall obtain, annually, written approval from local fire safety officials certifying that the provider complies with local fire codes. If there are not applicable codes, or if the division determines that the codes are not adequate to insure the safety of older or handicapped persons, the provisions of the National Fire Protection Association *Life Safety Code* (NFPA No. 101, 1976 edition) for places of assembly shall apply. This rule subparagraph is not applicable if the facility has a current participating agreement for provision of long-term care for either Title XVIII or Title XIX or a current license issued by the Division of Aging.

B. Each provider shall install and maintain in operable condition an adequate number of smoke detectors and fire extinguishers of the appropriate type as determined in consultations with state or local fire authorities. All smoke detectors and fire extinguishers shall be located according to the recommendations of state and local fire authorities.

C. A written plan for assuring the safety of recipients, staff and volunteers in case of fire or other disaster shall be developed in consultation with state or local fire authorities and shall include, but not necessarily be limited to:

(I) A written assessment of potential fire or safety hazards present on the premises and actions and procedures to follow to minimize potential danger;

(II) A written schedule for periodic check of smoke detectors and fire extinguishers to assure adequate pressure or battery strength is maintained; and

(III) A written training plan and schedule for staff and volunteers on safety responsibilities and actions to be taken if an emergency situation occurs and documentations of training sessions provided;

5. General safety, sanitation and house-keeping.

A. The building in which the center is located shall be of sound construction and maintained in good repair.

B. Ventilation by natural or mechanical means shall be provided. All screen doors shall be equipped with self-closing devices and shall fit tightly. Doors and windows and other openings to the outside shall be screened when necessary to prevent entrance of insects or vermin. The wire screen or its equal shall be of at least sixteen (16) meshes per linear inch.

C. The heating system shall be in compliance with the National Fire Protection Code (NFPA) and all state and local codes. Exposed heating pipes, hot water pipes or radiators in rooms and areas used by recipients and within reach of recipients shall be covered or protected and insulated when appropriate.

D. Illumination shall be adequate in all areas and commensurate with the type of activity. Glare shall be kept at a minimum by providing shades at all windows exposed to direct sunlight and using shaded light fixtures.

E. Stairways and hallways shall be kept free of obstructions and shall be well lighted. All stairways and ramps shall have nonslip surface or treads. Handrails shall be available for all inside and outside stairs and ramps.

F. Drugs, cleaning agents, pesticides and poisonous products shall be stored apart from food and out of the reach of the recipients and shall be used in a manner which insures safety of the recipient and the staff.

G. If wheelchair and physically handicapped persons are accepted, the provider shall provide ramps or other means of accessibility for handicapped persons and shall meet the standards of the American National Standards Institute publication (ANSI) A117.1 *Making Buildings and Facilities Accessible to, and Useable by, the Physically Handicapped*, and

6. Water supply and drinking water.

A. An adequate supply of water, the source of which is approved by the state water control authority, under sufficient pressure to properly serve the facility shall be provided. The potable water system shall be installed to preclude the possibility of backflow.

B. Drinking water shall be easily accessible to the participants and provided by either an angle jet drinking fountain with mouth guard or by a running water supply with

individual service drinking cups. Drinking facilities may not be located in a toilet room.

C. Toilet rooms. At least one (1) toilet and washbowl shall be available for each ten (10) recipients. The washbowl shall be in proximity to each toilet and shall be equipped with hot and cold running water. The toilet room shall be within easy access of the activity areas and the recipient shall have the right to privacy. Each toilet room shall be equipped with approved natural or mechanical ventilation. All toilets shall have grabrails. Individual paper towels, a trash receptacle, soap and toilet paper shall be provided at all times and shall be within reach of the participants. All toilet rooms shall otherwise meet ANSI standards of equipment and construction for access and usage by handicapped persons.

D. All plumbing and plumbing fixtures shall conform to applicable local codes. There shall be no cross-connection between the potable water supply nor any source of pollution through which the potable water supply might become contaminated.

E. Garbage shall be stored and disposed of in a sanitary manner.

F. Insects and rodents. Buildings used for day care shall be maintained free of insects and rodents. Control measures shall be maintained to prevent rodent and insect infestation.

G. Housekeeping and maintenance. All centers shall provide sufficient housekeeping and maintenance service to maintain the facility in good repair and in safe, clean, orderly, attractive and sanitary manner.

(G) The provider shall require a written assessment by the recipient's physician of the recipient's medical condition, activities needs and restrictions, dietary modifications, indicated therapies and medication orders. This assessment shall be required prior to the provision of service and is to be separate from the assessment described in subsection (2)(A).

(H) Adult day health care services provided within a long-term care facility or hospital shall be so structured, administered and monitored by the provider as to ensure there shall be no resultant diminishment of quality and level of services provided to recipients of long-term nursing care or hospital care residing within the same facility.

(I) The provider must provide the following services:

1. Individual plan of care. The provider must develop a written individual plan of care for each recipient within five (5) contact days following the entry of the recipient into the adult day health care program. The plan shall be designed to maintain the recipient at, or to restore to, optimal capability for self-care. The plan shall be based on information obtained from the recipient, recipient's family and

physician and the person or agency recommending the recipient, including a functional assessment. The plan shall include the recipient's physical, social, psychological needs, or both, short and long-term goals, means of goal accomplishment, daily activities, person(s) responsible for activities, location of activities and the recipient's planned days of attendance and arrival time. The plan of care shall be continued or revised as frequently as warranted by the recipient's condition, and in any event, not less frequently than each six (6) months. Revision of the plan of care shall not be required when modifications to physician-ordered medical services do not result in substantive changes in the plan objectives or means of accomplishment;

2. Nutrition services. The provider shall assure the availability of meals and supplemental snacks in accordance with each recipient's individual plan of care. Meals served by the provider shall provide at least one-third (1/3) of the recommended dietary allowance of the National Research Council. Supplemental snacks shall consist of nourishing food and beverage.

A. Food may be prepared, stored and served on site if the requirements of the local health department or applicable rules established by the Missouri Department of Health are met.

B. Food prepared away from the site shall be prepared in a facility which meets the requirements of the local health department or applicable rules established by the Missouri Department of Health;

3. Transportation. The provider shall arrange for or shall provide for transportation to enable persons to access the services and to participate in outings. A recipient should be in transit no more than one (1) hour and may not be brought to the service center, or left at the center, when staff is not in attendance;

4. Leisure-time activities. The provider shall provide planned recreational and social activities suited to the needs of the recipients and designed to stimulate interests, rekindle motivations and encourage physical exercise through small and large group activities;

5. Exercise and rest. Opportunity for physical exercise designed in relation to the individual's impairments and needs shall be provided and shall be alternated with rest periods or quiet activities;

6. Activities of daily living. Assistance in walking, toileting, feeding and other activities or daily living shall be provided in accordance with each recipient's individual plan of care;

7. Emergency services. Arrangements to respond to emergency situations shall be made.

A. Emergency numbers for each recipient shall be available to staff at all times.

B. First aid and cardiopulmonary resuscitation (CPR). At least one (1) staff member, trained in first aid and CPR shall be on the premises at all times. First aid and CPR training shall be taken from the American Red Cross or from another comparable source. At a minimum, those first aid supplies recommended by the *Red Cross Standard First Aid and Personal Safety* shall be readily available.

C. Emergency medical plan. Each provider shall have an established emergency medical plan which assures transportation to a hospital or other type facility providing emergency care. A written agreement, signed by the recipient, if capable, or responsible caretaker, shall be on file in the facility granting permission to transport the recipient in need of emergency care to the designated hospital or other type facility;

8. Observation. The health, functional and psycho-social status of each recipient shall be observed and documented by the licensed nurse, certified medication technician, or both, in the recipient's record at least monthly. In the case of the certified medication technician, the licensed consultant nurse must review and summarize, at least monthly, the notes on each recipient's health status. Therapy services provided must be summarized in the recipient record and progress noted at least monthly. Notes shall be made immediately of any accident, injury or illness and emergency procedures taken;

9. Medical consultation and treatment. The licensed nurse, certified medication technician, nurse consultant, or both, shall communicate with each recipient's physician to report observed changes in health status, including reaction to medicine and treatment and to obtain current medical recommendations regarding such items as diet, treatment and medications. Ordered medical services shall be recorded, signed and dated by the physician.

A. Orders concerning treatments, therapy, modified diets and medication shall be in effect for a specified number of days as indicated by the physician. If not specified, the period may not exceed sixty (60) days.

B. Physician phone orders may be taken only by a licensed nurse or certified medication technician.

C. Phone orders shall be written into the recipient's record by the licensed nurse receiving them and shall be signed and dated by that person. The physician shall sign and date the order within five (5) working days after giving the phone order;

10. Nursing services. A licensed nurse or certified medication technician with a nurse consultant shall be available at all times during the program's daily operating hours. Nursing services must be provided in

accordance with the particular needs of each recipient and must include the following:

A. Supervision of the administration of medication as prescribed by the recipient's physician;

B. Coordination of the development of the recipient care plan;

C. On-going monitoring of each recipient's health status;

D. Maintenance-therapy treatment as recommended by a therapist and which has been prescribed by a physician; and

E. Coordination among the recipient, his/her family and program staff members of orders from the recipient's physician;

11. Diet modifications. The provider shall provide special diets and other diet modifications as ordered by a physician. These diets shall be reviewed by a dietician, nutritionist, physician or nurse at least every six (6) months;

12. Medication administration distribution, storage and recording. Medicine or drugs shall be restricted to those prescribed for the recipient by his/her personal physician. All medications shall be labeled accurately and plainly and retained in their original container issued by the pharmacy. The containers shall be labeled with the recipient's name; physician's name; prescription number; name of medication; dosage; date of issuance; expiration date of all time-date drugs; and name, address and phone number of the pharmacy issuing the drug.

A. Recipients who are responsible for taking their own medication at home shall be permitted and encouraged to continue to be responsible for taking their own medications during the hours spent in the center.

B. Medication may not be administered without a written order signed by a licensed physician. Injectable medications may only be given by a licensed nurse. A certified medication technician who has been trained by the licensed nurse may give insulin injections. Medications are to be distributed by the licensed nurse, certified medication technician, or both. The licensed nurse, certified medication technician, or both, assigned the responsibility of medication distribution shall complete the procedure by personally preparing the dose, observing the act of swallowing oral medicines and recording it in the recipient's record on a medication sheet.

C. If a reaction to medication is observed by the licensed nurse or certified technician, the recipient's physician shall be called immediately. If contact cannot be made with the personal physician, emergency medical procedures shall be followed.

D. Medication storage. The provider shall be responsible to provide a safe, secure, locked place for medicines or drugs and make

them available to the recipient according to the instructions of his/her personal physician. Schedule II drugs shall be kept in a locked box. Medications requiring refrigeration shall be kept in a separate locked refrigerator or in a locked box within the refrigerator. Household-type medications which can be purchased without prescription, such as aspirin or antacids, may be retained in the center for administration as ordered by recipient's physician.

E. A written record of medications administered or distributed shall be maintained. Records shall be kept of all Schedule II drugs. Written policies shall specify that the only individual authorized to receive, control and manage the medication and drug program is the licensed nurse.

F. The system for administering, distributing and storing medications shall be reviewed not less than every three (3) months by the licensed nurse;

13. Counseling services. A professional staff member (social worker, nurse or other) must offer assistance to clients and families with personal, social, family or adjustment problems related to the primary, secondary diagnosis, or both. If professional counseling, psycho-therapeutic services, or both, are necessary for a recipient or his/her family, the program must refer the recipient or family to the appropriate community resource; and

14. Rehabilitative services. The provider must provide and coordinate rehabilitative services to be performed by qualified therapists as prescribed by a physician. Rehabilitative services must include occupational, physical and speech therapy. The provider must establish agreements with individual licensed or certified physical, speech and occupational therapists (unless they are employed as staff members), or their employers, to provide consultant services to the program and, where necessary, provide direct therapeutic services to a recipient.

(4) Reimbursement.

(A) Payment will be made in accordance with a fixed fee per unit of service, as defined and determined by the Division of Medical Services, to be based on an efficient and economical provider of these services. Provider of service will receive the fixed fee for the appropriate time period as defined in paragraphs (4)(A)1. and 2. Fees will be established for—

1. Units of service with a minimum duration of six (6) hours to a maximum of ten (10) hours; and

2. Units of service with less than six (6) hours with a minimum of three (3) hours.

(B) Payment for services shall be made on the lower of the established rate per unit of service or the provider's billed charge.

(C) Required provider services reimbursed through the established fee per unit of service are those services described in paragraphs (3)(I)1.—14.

(D) Maximum payment for adult day health care services in combination with other alternative services including personal care and Home and Community-Based Waiver Services for the Elderly provided to a recipient within a calendar month shall be limited to a monthly payment not in excess of one hundred percent (100%) of the average statewide monthly cost to the state for care in a nursing facility, (excluding state mental hospitals and state mental institutions for mental retardation).

(E) The average monthly cost to the state for care in a nursing facility will be established on the effective date of this regulation and in each subsequent month of May of each state fiscal year which will become effective on July 1 of the following state fiscal year.

(F) The provider must maintain accurate records in accordance with the provisions of 13 CSR 70-3.030 and is subject to sanctions provided in it for false, fraudulent, abusive practices and in violation of Title XIX (Medicaid) policies, procedures and regulations.

*Auth: sections 208.153, RSMo (Cum. Supp. 1991), 208.159 and 208.168, RSMo (1986) and 208.201, RSMo (Supp. 1987).**
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